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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Australia, Austria, Belgium, Bulgaria, Canada, Chile, Costa Rica, Côte d'Ivoire, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Madagascar, Netherlands, Norway, Portugal, Republic of Moldova, Romania, Russian Federation, Senegal, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution

Question of enforced or involuntary disappearances

The General Assembly,

Reaffirming the obligation of States under the Charter of the United Nations, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Recalling its resolution 33/173 of 20 December 1978, concerning disappeared persons, and its resolutions 46/125 of 17 December 1991 and 47/132 of 18 December 1992, on the question of enforced or involuntary disappearances,

Recalling also its resolution 47/133 of 18 December 1992 proclaiming the Declaration on the Protection of All Persons from Enforced Disappearance, as a body of principles for all States,

Emphasizing that, in the Vienna Declaration and Programme of Action, 1/ the World Conference on Human Rights welcomed the adoption of the Declaration on

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1/ Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I)), chap. III.

the Protection of All Persons from Enforced Disappearance and called upon all States to take effective legislative, administrative, judicial or other measures to prevent, terminate and punish acts of enforced disappearance,

Noting that the Working Group on Enforced or Involuntary Disappearances considers the adoption of the Declaration to be the most encouraging development since its establishment in respect of efforts to combat enforced disappearances, especially in so far as it recognizes that the systematic practice of such acts is of the nature of a crime against humanity,

Expressing concern that, according to the Working Group, the practice of a number of States can run counter to the Declaration,

Convinced of the need to continue implementing the provisions of its resolution 33/173 and of the other United Nations resolutions on the question of disappeared persons, with a view to finding solutions for cases of disappearance and eliminating enforced disappearances, duly taking into account the provisions of the Declaration,

Convinced also that further efforts are needed to promote wider awareness of, and respect for, the Declaration on the Protection of All Persons from Enforced Disappearance,

Deeply concerned about the persistence of the practice of enforced disappearances in the world,

Concerned by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Bearing in mind Commission on Human Rights resolution 1994/39 of 4 March 1994, 2/

1. Reaffirms that any act of enforced disappearance is an offence to human dignity, a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, 3/ and reaffirmed and developed in other international instruments in this field, as well as a violation of the rules of international law;

2. Recalls that all acts of enforced disappearance are offences punishable by appropriate penalties which take into account their extreme seriousness under criminal law;

3. Reiterates its invitation to all Governments to take appropriate legislative or other steps to prevent and suppress the practice of enforced disappearances, in keeping with the Declaration on the Protection of All Persons

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2/ See Official Records of the Economic and Social Council, 1994, Supplement No. 4 (E/1994/24) chap. II, sect. A.

3/ Resolution 217 A (III).

from Enforced Disappearance, and to take action at the national and regional levels and in cooperation with the United Nations to that end;

4. Calls upon Governments to take steps to ensure that, when a state of emergency is introduced, the protection of human rights is ensured, particularly as regards the prevention of enforced disappearances;

5. Reminds Governments of the need to ensure that their competent authorities conduct prompt and impartial inquiries in all circumstances whenever there is reason to believe that an enforced disappearance has occurred in territory under their jurisdiction;

6. Further recalls that, if allegations are confirmed, perpetrators should be prosecuted;

7. Once again urges the Governments concerned to take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

8. Encourages States, as some have already done, to provide concrete information on measures taken to give effect to the Declaration, as well as obstacles encountered;

9. Requests all States to consider the possibility of disseminating the text of the Declaration in their respective national languages and to facilitate its dissemination in the national and local languages;

10. Welcomes the action taken by non-governmental organizations to encourage implementation of the Declaration and invites them to consider what more they could do to facilitate its implementation and dissemination and to contribute to the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

11. Expresses its appreciation to the Working Group on Enforced or Involuntary Disappearances for its humanitarian work;

12. Requests the Working Group, in the continued exercise of its mandate, to take into account the provisions of the Declaration on the Protection of All Persons from Enforced Disappearance, and to modify its working methods if necessary;

13. Invites the Working Group on Enforced or Involuntary Disappearances to identify obstacles to the realization of the provisions of the Declaration and to recommend ways of overcoming those obstacles, taking into account the discussions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

14. Furthermore encourages the Working Group to continue to consider the question of impunity, in close collaboration with the rapporteur appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with due regard for the relevant provisions of the Declaration;

15. Requests the Working Group to pay the utmost attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned to search for and identify these children;

16. Appeals to the Governments concerned, particularly those that have not yet replied to the communications transmitted by the Working Group, to cooperate fully with it and, in particular, to reply promptly to its requests for information so that, while respecting its working methods based on discretion, it may perform its strictly humanitarian role;

17. Encourages the Governments concerned to give serious consideration to inviting the Working Group to visit their countries so as to enable the Working Group to fulfil its mandate even more effectively;

18. Expresses its profound thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information, and to the Governments that have invited the Working Group to visit their countries, asks them to give all necessary attention to the Working Group's recommendations and invites them to inform the Working Group of any action they take on those recommendations;

19. Calls upon the Commission on Human Rights to continue to study this question as a matter of priority and to take any step it may deem necessary to the pursuit of the task of the Working Group and to the follow-up of its recommendations when it considers the report to be submitted by the Working Group to the Commission at its fifty-first session;

20. Invites the Commission on Human Rights at its fifty-first session, to extend for three years the term of the mandate of the Working Group, as defined in Commission resolution 20 (XXXVI) of 29 February 1980, 4/ while maintaining the principle of annual reporting, and requests the Working Group to continue to fulfil its mandate in a rigorous and constructive fashion;

21. Renews its request to the Secretary-General to continue to provide the Working Group with all the facilities it requires to perform its functions, especially in carrying out missions and following them up;

22. Requests the Secretary-General to keep it informed of the steps he takes to secure the widespread dissemination and promotion of the Declaration on the Protection of All Persons from Enforced Disappearance;

23. Also requests the Secretary-General to submit to it at its fifty-first session a report on the steps taken to implement this resolution;

24. Decides to consider the question of enforced disappearances, and in particular the implementation of the Declaration on the Protection of All

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4/ See Official Records of the Economic and Social Council, 1980, Supplement No. 3 and corrigenda (E/1980/13 and Corr.1 and 2), chap. XXVI, sect. A.

Persons from Enforced Disappearance, at its fifty-first session under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".